

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L05P0026**
Proposed Ordinance No. **2007-0620**

THREADGILL SUBDIVISION
Preliminary Plat Application

Location: 13502 – 162nd Avenue Southeast

Applicant: Eagle Creek Development, LLC
represented by **Bill H. Williamson**
Williamson Law Office
701 - 5th Avenue
Seattle, Washington 98139
Telephone: (206) 292-0411
Facsimile: (206) 292-0313

Intervenor: Citizen's Alliance for a Responsible Evendell
represented by **Gwendolyn High**
P.O. Box 2936
Renton, Washington 98056
Telephone: (425) 336-4059

King County: Department of Development and Environmental Services (DDES)
represented by **Chad Tibbits**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7194
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Approve subject to conditions
Department's Final Recommendation:	Approve subject to conditions (modified)
Examiner's Decision:	Approve subject to conditions (modified)

EXAMINER PROCEEDINGS:

Hearing Opened: December 18, 2007
Hearing Closed: January 22, 2008
Hearing Re-opened (for administrative purposes) and Closed: January 25, 2008

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES AND TOPICS ADDRESSED:

Surface water drainage Traffic safety Student safe walking conditions
Complete application

SUMMARY OF DECISION:

A subdivision of 15 lots on 4.01 acres in the urban area is approved, subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Applicant: Eagle Creek Land Development, LLC
Randy Goodwin
13701 SE 253rd Street
Kent, WA 98042
206-730-9145

Engineer: Ed McCarthy, P.E., P.S.
9957-171st Avenue SE
Renton, WA 98059
425-271-5734

STR: 14-23-05

Location: The site is located at 13502-162nd Avenue SE, at the southeast corner of 162nd Avenue SE and SE 135th Street intersection.

Zoning: R-4

Acreage: 4.01 acres

Number of Lots: 15

Density: Approximately 3.74 units per acre

Lot Size: Approximately 6,000 to 10, 000 square feet in size

Proposed Use: Single Family Detached Dwellings

Sewage Disposal: The City of Renton

Water Supply: King County Water District No. 90

Fire District: King County Fire District No. 39

School District: Issaquah School District No. 411

Complete Application Date: December 13, 2005

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the December 18, 2007, public hearing are found to be correct and are incorporated herein by this reference. The LUSD staff recommends approval of the application, subject to conditions. The division's recommended conditions were modified at the January 8 and 22, 2008 public hearings.
3. The mitigated determination of environmental non-significance (MDNS) issued on November 9, 2007 was appealed by the applicant. On December 18, 2007, the applicant withdrew its appeal. The conditions of the November 9, 2007 MDNS are now incorporated in the proposed action.
4. Section F 3 of the preliminary report for the December 18, 2007 public hearing erroneously refers to the Soos Creek Subbasin of the Green River drainage basin. The subject property lies within the Maplewood, Orting Hills and Mainstem sub-basins of the Lower Cedar River basin. This error had no effect on the review of the proposed plat by DDES.
5. Section H of the preliminary report for the December 18, 2007 public hearing was revised by the Land Use Services Division at the January 8, 2008 public hearing. The revised section is set forth in exhibit no. 18 in the hearing record.
6. In a letter dated January 7, 2008 (exh. no. 24) the applicant proposed revisions to the surface water drainage system. These revisions are, in part, a response to a recent hydraulic study prepared for Southeast 144th Street, and also respond to downstream concerns identified by residents of the neighborhood. To mitigate flooding problems identified downstream of the west basin of the Threadgill plat, and along Southeast 144th Street, the applicant's revised proposal is to provide Level 3 flow control of surface water discharged from the detention pond to be located in the southwest corner of the property.

In addition, three options are offered by the applicant to address concerns downstream from the east basin of the subject property. Option 1 would bypass potential drainage problem areas immediately downstream from the northeast corner of the site. Option 2 would utilize a new storm pipe system within the right-of-way of Southeast 135th Street, and would provide improvements on private property to convey water from Southeast 135th Street to Southeast 136th Street. Option 3 would provide increased detention capacity (Level 3 flow control) for the east basin, but would not provide downstream improvements. The applicant and all nearby property owners who have expressed an opinion prefer that Option 1 be utilized for the discharge and conveyance of stormwater from the east basin. The review engineer also supports that option, and recommends that King County accept for maintenance the new conveyance system that would be constructed within the public right-of-way from the discharge point on 164th Avenue Southeast to the point on Southeast 136th Street where the new conveyance system will intersect with the current north-south channel approximately 160 feet east of 164th Avenue Southeast. A drainage adjustment is required for implementation of Option 1.

7. The downstream analysis provided by the applicant for surface water runoff from the west basin indicates that water is now discharged from the Threadgill property at its southwest corner, then crosses 162nd Avenue Southeast and travels to the west along Southeast 136th Street. It then turns south and travels to a wetland within the Plat of Liberty Grove Contiguous. Evidence presented by a property owner to the south states that the current drainage from the Threadgill Plat west basin now travels south on 162nd Avenue Southeast, and does not enter the Liberty Grove Contiguous wetland.

There are current flooding problems to the south, that are exacerbated by excessive water discharging from the Liberty Grove Contiguous wetland during certain storm events. Surface water discharge from the Threadgill property's west basin is required to follow its existing drainage course, unless a surface water adjustment is approved.

A catch basin exists in the right-of-way of 162nd Avenue Southeast at Southeast 136th Street, from which a pipe leads west within Southeast 136th Street. However, it is possible that existing runoff from the southwest basin also travels, at least in part, south on 162nd Avenue Southeast within existing road side ditches. Diversion to the west of any portion of the surface water runoff that in fact flows south on 162nd Avenue Southeast would aggravate existing downstream problems and would conflict with SWDM requirements. The actual path of surface water from the west basin of the Threadgill property during various storm events can be determined during the process of reviewing final drainage plans.

8. The proposed development of 15 lots has received a certificate of traffic concurrency from the King County Department of Transportation. The number of trips generated during any peak hour by the Threadgill Plat is 16. This is below the thirty peak hour trips at any intersection which is the minimum threshold required to call for mitigation of traffic impacts at an affected intersection.

The MDNS requires participation by this proposed development in the construction of 162nd Avenue Southeast from its present southerly terminus (near Liberty Gardens) to Southeast 144th Street. This requirement will enhance the interconnectivity of streets serving the neighborhood, and will reduce the number of vehicles traveling to and from this subdivision that will travel through the high accident location of Southeast 128th Street and 160th Avenue Southeast.

9. The proposed development does not include construction of either Southeast 135th Street or Southeast 136th Street from 162nd Avenue Southeast to 164th Avenue Southeast. Although right-of-way will exist adjacent to this plat on both Southeast 135th and Southeast 136th Streets to allow for future construction, any decision to construct improvements to either the Southeast 135th Street or Southeast 136th Street rights-of-way between 162nd Avenue Southeast and 164th Avenue Southeast will be subject to future consideration. The Threadgill Plat will be served solely by a cul-de-sac street from 162nd Avenue Southeast to a "dead end" within the subject property.
10. It is proposed by King County Department of Transportation, and agreed by the applicant, to provide safe walking conditions for students who will walk to Liberty High School and Brierwood Elementary School by constructing a walkway on 162nd Avenue Southeast, from the southwest corner of the Threadgill subdivision to Southeast 137th Place within the Plat of Liberty Lane. Within Liberty Lane, Southeast 137th Place connects with a path to the east boundary of that property on the alignment of 164th Avenue Southeast, adjacent to Liberty High School. This route is reasonable and suitable for Liberty High School students. However, from Southeast 137th Place, Brierwood Elementary students would have to cross the high school grounds to 166th Avenue Southeast, then turn back north to reach Brierwood Elementary. It is unlikely that elementary school students would, in fact, walk south approximately 200 yards from the Threadgill plat entrance road to Liberty Lane, then retrace those 200 yards going back north on 166th Avenue Southeast. It is substantially more likely that the undeveloped right-of-way of Southeast 135th Street, or the undeveloped right-of-way of Southeast 136th Street, would be utilized to travel east and connect with 166th Avenue Southeast. The final engineering plans can identify what, if any, improvements are necessary and acceptable to King County DDES to provide safe walking conditions on either Southeast 135th Street or Southeast 136th Street to

166th Avenue Southeast for students who will walk from the Threadgill subdivision to Brierwood Elementary School.

11. KCC 20.24.040 provides that DDES shall not commence review of any application until the applicant has submitted the materials and fees required for a complete application. The Intervenor in this proceeding contends that the Threadgill preliminary plat application was incomplete for failure to provide a certificate of water availability, a certificate of sewer availability, a certificate of transportation concurrency, density calculations and a tree inventory. (The Intervenor's contention includes a claim that certain certificates, that may have been valid when submitted, subsequently expired.)

A King County Certificate of Water Availability for this property (then proposing a subdivision of 23 lots) was issued by King County Water District No. 90 on December 13, 2004, and was filed with DDES with this subdivision application on December 13, 2005. The certificate was renewable after one year. A certificate of sewer availability for 15 lots on the property was issued by the City of Renton Wastewater Utility on July 14, 2005, and was also filed with DDES on December 13, 2005.

The Certificate of Water Availability was re-issued by King County Water District No. 90 on January 7, 2008, and the Certificate of Sewer Availability issued by the City of Renton was confirmed as still valid by the issuer on January 7, 2008.

A Certificate of Transportation Concurrency was issued by King County Road Services Division for 16 dwelling units on the Threadgill property on December 2, 2005 and was received by DDES on December 13, 2005.

Subdivision Density and Dimension Calculations dated December 5, 2005 were filed by the applicant with DDES on December 13, 2005, and were re-filed on a revised DDES form on January 2, 2008.

A site plan identifying the trees on the subject property was filed with DDES on December 13, 2005, as Sheet 2 of the subdivision plan. A tree retention plan and landscape plan are required with engineering plans for plat development.

DDES determined that the subject application was complete on December 13, 2005.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed Threadgill subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare, and for open spaces, drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreation, playgrounds, schools and school grounds and safe walking conditions for students who walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below and contained in the mitigated determination of environmental non-significance are in the public interest and are reasonable and

proportionate requirements necessary to mitigate the impacts of the development upon the environment.

4. The dedications of land or easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the revised proposed preliminary plat submitted by the Applicant on December 11, 2006, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.
5. The applicant should apply for a surface water drainage adjustment to allow for the discharge of surface water from the east basin of the subject property to the right-of-way of 164th Avenue Southeast approximately as shown in exh. no. 29, from where the surface water would be conveyed south to the alignment of Southeast 136th Street, then east to the location where current flow from the east basin enters Southeast 136th Street at the existing channel. This adjustment would allow for the bypassing of current problem areas that could be impacted by additional flows from the Threadgill plat. As part of the surface water drainage application, the developer should request that King County accept and maintain the new conveyance system to be constructed within the public right-of-way of 164th Avenue Southeast and Southeast 136th Street.
6. Final engineering plans should provide for Level 3 detention of surface water prior to leaving the west basin of the proposed development, and should re-examine the discharge of existing flow from the west basin to determine the extent to which any existing flows are conveyed south along 162nd Avenue Southeast, rather than west along the alignment of Southeast 136th Street, during major storm events. This re-examination should be specifically reviewed by the DDES review engineer, to assure that no flow of surface water from 162nd Avenue Southeast is redirected to the west and enters the wetland within the Plat of Liberty Grove Contiguous.

If any of the surface water flow from the west basin of the subject property is found to travel south along 162nd Avenue Southeast under existing condition, drainage plans for reconstruction of 162nd Avenue Southeast and its extension shall be required to accommodate those flows and assure that there is no diversion of surface water to the west.

7. The proposed development, with the conditions of the MDNS and the conditions of final plat approval set forth in this decision, improves road connectivity in the neighborhood in a manner that fully and proportionately mitigates the impacts of this development on traffic and vehicle safety at high accident locations on the Southeast 128th Street corridor.
8. Final engineering plans should provide a walkway to the east on the alignment of either Southeast 135th Street or Southeast 136th Street, to be utilized by students who will walk to Brierwood Elementary School, to provide a safe connection to 166th Avenue Southeast, for travel north to Brierwood. These walkways improvements should be reviewed by DDES for consistency with applicable King County standards for a safe walkway, and should be constructed, as approved, with the plat improvements.
9. The Threadgill application for preliminary plat approval meets the requirements of KCC 19A.08.150 and KCC 20.20.040. DDES correctly determined that this application was complete on December 13, 2005. The subsequent expiration and renewal of certificate of water and sewer availability did not affect the completeness of the application. The certificate of transportation concurrency was in effect at the time this application for subdivision approval was filed, and, therefore, remains valid while review of the application is pending. Appropriate density calculations and a tree inventory were submitted with the application. Modifications made to a

proposal during its review do not require submission of revised documents to maintain a complete application for the purpose of considering an application's eligibility for preliminary approval.

DECISION:

The proposed subdivision of Threadgill Plat, as revised and received December 11, 2006 is granted preliminary approval, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

Any plat boundary discrepancies shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or modifying the location of lots or tracts as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 2005 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. A surface water drainage adjustment shall be applied for to permit discharge from the Tract B (east) pond to 164th Avenue Southeast, at approximately the location shown on exh. no. 29, from where surface water shall be conveyed south to Southeast 136th Street, then approximately 160 feet east along Southeast 136th Street (preferably within the southern portion of the right-of-way) to the existing channel where the present flow from the east basin of the Threadgill property enters Southeast 136th Street. The adjustment application shall request that King County accept for maintenance the new conveyance

system to be constructed within the public right-of-way. In the event a surface water adjustment that permits utilization of Option 1 substantially as presented in exh. no. 29 is denied, the hearing on this application shall be reopened for the limited purpose of re-evaluating surface water drainage alternatives for the east basin.

- c. Engineering plans for the west basin shall provide for detention of surface water to the Level 3 standard. The conveyance of water discharged from the west basin shall be re-examined to determine the extent, if any, to which existing flow travels south along the alignment of 162nd Avenue Southeast, south of Southeast 136th Street. No proportion of surface water that currently travels south on 162nd Avenue Southeast shall be diverted to the west along Southeast 136th Street.
 - d. To implement the required Best Management Practices (BMP's) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2005 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.
7. The following road improvements are required to be constructed according to the 1993 King County Road Standards (KCRS):
- a. Road A shall be improved at a minimum to the urban minor access street standard.
 - b. FRONTAGE: The frontage along 162nd Ave SE (east side) shall be improved at a minimum to the urban subcollector street standard.
 - c. The Applicant shall widen 162nd Avenue SE, from the intersection of SE 136th Street to the northeasterly curb return of the intersection of SE 137th Place (the plat street for the Liberty Lane subdivision) to provide adequate walkway conditions for students who will walk to Liberty High School, and Maywood Middle School.

These improvements shall consist of a minimum 22-foot wide roadway together with a walkway that is:

- (i) eight feet wide if directly abutting the traveled-way, or
- (ii.) five (5) feet wide if separated from the vehicle travel lane by an extruded curb (which requires an additional 1-foot shy distance from the shoulder edge of the northbound travel lane – i.e., 162nd Avenue SE would need to be at least 23-feet wide) or,
- (iii) five (5) feet wide if physically separated from the vehicle travel lane by a gravel shoulder.

These improvements may include construction of full urban improvements (curb, gutter and sidewalk) in lieu of these options.

Note: it is expected that similar improvements will also be conditions of approval for the proposed plats of Liberty Gardens L04P0034 and Cavalla L06P0001, on appropriate portions of 162nd Avenue Southeast.

- d. The applicant shall provide an improved walkway within the right-of-way of Southeast 135th Street or Southeast 136th Street to 164th Avenue Southeast, and continuing east, as necessary, to 166th Avenue Southeast to provide safe walking conditions for students who will walk to Brierwood Elementary School to the north. These improvements shall be the minimum necessary determined by DDES to provide safe walking conditions for elementary school students.
 - e. Tract D shall be improved to the joint use driveway standard per Section 3.01 of the KCRS. This Tract shall be owned and maintained by the Lot owners served.
 - f. Thirty feet of additional R/W shall be dedicated along the frontage of SE 135th St; along with R/W radii at the northwest corner of Lot 15 and the northeast corner of Tract B.
 - g. R/W radii shall also be dedicated at the southwest corner of Tract E and the southeast corner of Lot 6.
 - h. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
 - i. A conceptual frontage road improvement plan for the future construction of SE 136th St, to the neighborhood collector street standard, shall be submitted with the engineering plans. This plan shall show the necessary R/W width for future construction of the road. Additional R/W needed to construct the future road shall be dedicated with the final plat. The intent of this condition is to insure that, following development, sufficient R/W will exist for future construction of SE 136th St to the east.
- 8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 - 9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
 - 10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

11. There shall be no direct vehicular access to or from SE 135th Street or Southeast 136th Street from those lots which abut those streets. A note to this effect shall appear on the engineering plans and the final plat.
12. The proposed subdivision shall comply with the Critical Areas Code as outlined in K.C.C. 21A.24. Permanent survey marking and signs as specified in K.C.C. 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of critical areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed. All offsite construction required as conditions of final plat approval shall likewise comply with the CAC.
13. Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from K.C.C. 21A.24 shall also be addressed by the applicant.

Wetlands

- A. Wetland A is a Category IV and requires a 50 foot buffer. The wetland is located in the southeastern portion of the site. The wetland is less than 2500 square feet and may be filled as shown on the site plan dated December 11, 2006. Mitigation is required for the wetland and buffer impacts.
- B. Wetland B is a Category IV wetland and requires a 50 foot buffer. The wetland is located in the southwestern portion of the site. A portion of the wetland and buffer is located within unimproved right-of-way. This portion of the wetland and buffer may be impacted for required road improvements, as shown on the site plan dated December 11, 2006, subject to an approved mitigation plan.
- C. The 50 foot buffer for Wetland B may be reduced to 25 feet with an approved buffer enhancement/mitigation plan.
- D. All remaining wetlands and buffers shall be placed within Critical Areas Tracts (CAT) for long term protection. A split-railed fence or similar barrier shall be installed along the tract boundary.
- E. A 15 foot building set back line (BSBL) is required from the edge of CAT's and shall be shown on all affected lots.
- F. Additional road improvements are required within the unimproved 162nd Avenue right-of-way (ROW) located south of the proposed plat. Critical areas and buffers are located within this ROW. Impacts within the ROW may be permitted with mitigation. A mitigation plan will be required during engineering review.
- G. The engineering plans shall be routed to Critical Areas staff for review and approval of the critical area conditions.

RESTRICTIONS FOR CRITICAL AREA TRACTS AND CRITICAL AREAS AND BUFFERS

Dedication of a critical area tract/critical area and buffer conveys to the public a beneficial interest in the land within the tract/critical area and buffer. This interest includes the

preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The critical area tract/critical area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/critical area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/critical area and buffer. The vegetation within the tract/critical area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/critical area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the critical area tract/critical area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed. No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

14. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
15. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation and critical area tract(s).
16. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.

- e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if 162nd Avenue SE is on a bus route. If 162nd Avenue SE is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
17. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current county fees.
18. The following have been established by SEPA as necessary requirements to mitigate the adverse environmental impacts of this development. The applicants shall demonstrate compliance with these items prior to final approval.
- a. In order to address the incremental impacts of the development of the Threadgill plat, and the cumulative impacts with other pending development proposals in the area (Liberty Gardens, DDES File L04P0034, and Cavalla, DDES File L06P0001), on the High Accident Location (HAL) at the intersection of SE 128th Street/ 160th Avenue SE), the Applicant shall individually or jointly with other developers in the area construct an offsite extension of 162nd Avenue SE in general conformance with the conceptual plan submitted to DDES (dated: July 2, 2007) for the plat of Cavalla, from the current south terminus of 162nd Avenue SE (near the SE 138xx block) to SE 144th Street. These improvements shall include no less than 22 feet of roadway paving, plus all associated appurtenances, and all storm drainage conveyance/ detention/treatment facilities as determined by DDES. These improvements shall include a tight-lining of the existing water-course located on the westerly half of the 162nd Avenue SE right-of-way. (KCC 14.80.030B)

Note: a multi-party agreement between the three pending plat applicants (Threadgill, Liberty Gardens, and Cavalla) has been reached to implement this requirement. Portions of this improvement are located along the frontage of the Liberty Gardens and Cavalla plats, and will require additional roadway frontage improvements as conditions of those plats' approvals.

- b. In order to address the incremental impacts of the Threadgill development, by itself, on the HAL at the intersection of SE 128th Street/ 160th Avenue SE, this applicant shall – in addition to the requirements of the preceding SEPA condition – dedicate any additional right-of-way required along the SE 136th Street margin of the site needed to construct –

in the future, by others (private or public) – an extension of SE 136th Street from 162nd Avenue SE to 166th Avenue SE. The required additional right-of-way, as needed, may be based upon the preliminary road profile prepared by Baima & Holmburg dated 4/18/2005, and based upon a *future* 32-foot wide roadway with curb, gutter and sidewalks meeting applicable King County Road Standards, and any cut/fill slopes or retaining walls needed to allow others to construct this roadway. Any additional R/W needed to comply with this condition shall be determined prior to engineering plan approval and then shown as dedication on the final plat. (KCC 14.80.030B)

19. To implement K.C.C. 21A.38.230 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of K.C.C. 21A.38.230. No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with K.C.C. 21A.38.230.B.4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to K.C.C. 21A.38.230.B.4.d.(2).
20. A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with K.C.C. 21A.38.230.B.6. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)

ORDERED this 29th day of January, 2008.

James N. O'Connor
King County Hearing Examiner *pro tem*

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before February 12, 2008***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before February 19, 2008***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE DECEMBER 18, 2007, JANUARY 8 AND 22, 2008 PUBLIC HEARING ON
DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L05P0026.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Barbara Heavey, Chad Tibbits, Kristen Langley, Nick Gillen and Bruce Whittaker representing the Department; Bill H. Williamson and Shupe Holmberg, representing the Applicant; Gwendolyn High, Intervenor and Ty Pendergraft, Ed Sewell, Ed McCarthy, Doris Yepez, Michelle Hohlbein, John N. Case, Ed McCarthy, Henry Perrin, Keith Brown, and Gary Norris.

The following Exhibits were offered and entered into the record on December 18, 2007:

- Exhibit No. 1 Prepared remarks on the pre-hearing conference on CARE's petition to intervene
- Exhibit No. 2 Citizen's statements of support of the CARE petition to intervene
- Exhibit No. 3 Letter from Mary and Donald Hamblin to the Hearing Examiner's Office dated December 17, 2007 in support of the petition to intervene by CARE
- Exhibit No. 4 Threadgill vicinity development map

The following Exhibits were offered and entered into the record on January 8, 2008:

- Exhibit No. 4A Annotated Threadgill vicinity development map by Shupe Holmberg
- Exhibit No. 5 Department of Development and Environmental Services File No. L05P0026
- Exhibit No. 6 Department of Development and Environmental Services preliminary report dated December 18, 2007
- Exhibit No. 7 Application dated December 13, 2005
- Exhibit No. 8 Environmental Checklist dated December 13, 2005
- Exhibit No. 9 SEPA Mitigated Determination of Non-Significance dated November 9, 2007
- Exhibit No. 10 Affidavit of Posting indicating January 25, 2006 as date of posting and January 26, 2006 as the date the affidavit was received by DDES
- Exhibit No. 11 Revised preliminary plat map and site plan dated December 11, 2006
- Exhibit No. 12 Revised Level 1 Downstream Analysis prepared by Baima & Holmberg, Inc., received December 11, 2006
- Exhibit No. 13 Revised Critical Areas Report prepared by Sewall Wetland Consulting, Inc., received December 11, 2006
- Exhibit No. 14 Revised Traffic Impact Analysis prepared by Gary Norris, received December 11, 2006
- Exhibit No. 15 Landscape Plan (Conceptual Recreation Space Plan) prepared by Lane & Associates, received December 11, 2006
- Exhibit No. 16 King County Water District No. 90 Certificate of Water Availability dated December 13, 2004
- Exhibit No. 17 Submittal package by the Citizen's Alliance for a Responsible Evendell dated January 4, 2008
- Exhibit No. 18 Drainage narrative
- Exhibit No. 19 King County Department of Assessments Map
- Exhibit No. 20 Density and Dimension Calculations
- Exhibit No. 21 Email from Ty Pendergraft to Bill Williamson, Shupe Holmberg and the Goodwins dated January 7, 2008, re: Sewer Availability
- Exhibit No. 22 King County Certificate of Water Availability
- Exhibit No. 23 Response to C.A.R.E. issues/concerns
- Exhibit No. 24 Letter to Bruce Whittaker of DDES from Baima & Holmberg, Inc. dated January 7, 2008 re: Proposed Stormwater Control
- Exhibit No. 25 Report from Ed McCarthy, PE, re: Downstream Drainage Analysis
- Exhibit No. 26 Aerial photograph showing the downstream conveyance system
- Exhibit No. 27 Basin map

- Exhibit No. 28 Liberty Grove and Liberty Grove Contiguous Street and Storm Drainage Plan (2 sheets)
- Exhibit No. 29 Sheet titled Option 1 – Alternate Storm Outfall
- Exhibit No. 30 Preliminary Road Improvement Plan
- Exhibit No. 31 Delivery Record/Receipts (3 pages)
- Exhibit No. 32 Letter to John & Nenita Ching, Donald & Andrea Gragg, Norm & Patricia Gammel from Curt W. Crawford, Manager, King County Stormwater Services Section dated April 13, 2007
- Exhibit No. 33 DDES Permit Approval Actions Report
- Exhibit No. 34 Letter to James N. O'Connor from Peter H. Eberle dated December 17, 2007
- Exhibit No. 35 Email to C.A.R.E. from Don & MaryEllen Hamblin dated December 17, 2007
- Exhibit No. 36 Email to C.A.R.E. from Susan Oord dated December 16, 2007
- Exhibit No. 37 Email to C.A.R.E. from Mike Ritchey dated December 16, 2007
- Exhibit No. 38 Memo to DDES from Bob & Lynn Wilmot dated January 8, 2008
- Exhibit No. 39 Letter to C.A.R.E. from John & Nenita Ching dated January 7, 2008

The following Exhibits were offered and entered into the record on January 22, 2008:

- Exhibit No. 40A Photo of Liberty Grove Contiguous drainage pond (under construction)
- Exhibit No. 40B Photo of path to the east on SE 135th Street alignment
- Exhibit No. 40C Photo of Hohlbein property
- Exhibit No. 41 HALS/HARS List
- Exhibit No. 42 Student walkways

The following exhibit was entered into the record on January 25, 2008:

- Exhibit No. 43 CARE: Threadgill Hearing prepared comments (January 22, 2008) with attachments

JNOC:gao

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